The Commission has already considered AT&T's protestations concerning so-called "loopholes"[30] in its Section 214 requirement that "affiliated" U.S. carriers certify that they will comply with the Commission's proportionate return policy.[31] Moreover, the Commission provided that "U.S. carriers will be subject to ongoing reporting requirements that are designed to detect discrimination by foreign carriers or administrations in favor of specific U.S. carriers."[32]

The Commission also "retain[ed] the option to impose or reimpose dominant carrier regulation on a particular carrier that is found to have engaged in anticompetitive conduct."[33] In addition, the Commission announced it "will not hesitate to undertake an enforcement action where we are presented with evidence that an affiliated U.S. carrier has entered into such an agreement or engaged in willful misrepresentation before this Commission by failing to

---

[30] The "loopholes" that AT&T claims exist involve the manipulation of proportionate return traffic and foreign carrier and U.S. affiliated carriers setting accounting rates above cost and thereby engaging in a "price squeeze of other U.S. carriers." AT&T at 29-30.

[31] See Regulation of International Common Carrier Services, 7 FCC Rcd at 7335.

[32] Id. at 7332.

[33] Id.

disclose to the Commission any such prohibited arrangements."[34]

AT&T complains that "[u]nfortunately" the above-referenced Commission decision left unresolved "many of the complex issues" raised by foreign carrier participation in the U.S. service market. Nonetheless, AT&T acknowledges that the Commission has addressed those very issues whenever they have been presented in an application[35], although it claims that the Commission's policies are ineffective outside that context. AT&T at 30-31. Faced with this internal contradiction in its position, AT&T can only argue in a somewhat forlorn manner that the Commission's "current regulatory framework" is being outpaced by events. Further grasping at straws, AT&T argues that a number of the "Commission's general policy statements" are "[e]qually ineffective." Id. at 31.

AT&T's criticisms of the Commission's ability to address the leveraging of foreign carrier market power are clearly without foundation. AT&T and any other aggrieved party can seek redress for violations of the Commission's proportionate return and other policies and for violations of the Communications Act even after the Commission has

---

[34] Id. at 7335.

[35] AT&T at 29-30 (citing TLD, supra; US Sprint Communications Co., 4 FCC Rcd 6279 (1991); Atlantic Tele-Network, Inc., 6 FCC Rcd 6529 (1991), aff'd 8 FCC Rcd 4776 (1993)).

acted on an application, simply by filing a formal complaint pursuant to Section 208 of the Act or by requesting that the Commission initiate an investigation pursuant to Sections 204 and 218 of the Act.

There is similarly no merit to AT&T's broad-brush accusation that the Commission's general policy prohibiting special concessions between foreign carriers and their U.S. affiliates is ineffective. To the extent that foreign carriers engage in practices that favor particular U.S. carriers, the disfavored U.S. carriers have every incentive to bring that matter to the Commission's attention and to interdict that conduct. The singular infrequency of such complaints demonstrates convincingly that the Commission's policies have indeed been effective in deterring foreign carriers from engaging in prohibited conduct.

V. AT&T'S CHALLENGES TO THE MCI/BT ALLIANCE ARE MISPLACED

AT&T's baseless allegations about the so-called "ineffectiveness" of the Commission's policies fail to mask the real purpose of its Petition -- i.e., to impede the ability of MCI and BT to compete vigorously with AT&T through their alliance. AT&T's quarrels with that alliance are both procedurally and substantively misplaced.

At the outset, AT&T asserts that "[t]he Commission already has recognized that it has not satisfactorily addressed the issue of market access by foreign carriers to the U.S. for entry and expansion." AT&T at 32. But the

only "support" AT&T offers for that contrived premise is a reference to pending applications by foreign-based or affiliated carriers that present the issue of foreign carrier market entry, which the Commission will be acting on.

Equally without merit is AT&T's allegation that the current framework of the Commission's regulatory policies is not adequate for assessing the MCI/BT transaction. Id. AT&T argues that the MCI/BT transaction presents many public interest issues and "[i]n the absence of a new regulatory approach . . . the Commission's review . . . will be fragmented." Id. at 37. AT&T complains that parties will have to raise issues piece-meal in the context of individual MCI Section 214 applications or in other proceedings which would involve substantial litigation and that it would be virtually impossible for the Commission to resolve these issues in a manner consistent with other U.S. government agency objectives. Id. at 38-39. As AT&T well knows, its arguments are nonsense.

The Commission has a statutory responsibility under Section 214 of the Act to act on any applications arising from the MCI/BT transaction. AT&T's protestations regarding "piece-meal" review ignore the fact that the Commission cannot evade its statutory responsibilities. When any such applications are filed, as in the case of the TLD Section 214 application, AT&T and any other party will have an

adequate opportunity to present any and all arguments and issues they consider relevant to those applications. AT&T and any other party can also subsequently file a complaint at any time and seek appropriate redress.

Moreover, AT&T's assertion that by addressing objections to the MCI/BT transaction in the context of an application, the Commission could not reach conclusions consistent with the objectives of other U.S. government agencies, is ludicrous on its face. The Commission can of course solicit the views of other government agencies to ensure that its decision is consistent with their policies. Similarly, other agencies may participate in the Commission's proceeding in which those applications are considered.

VI. OBSERVATIONS ON AT&T'S PROPOSED RULES

AT&T's proposed rules would deny the public the ability to obtain the kinds of seamless international services that it increasingly demands and would lead to the further entrenchment of AT&T's position in the international telecommunications field. Although AT&T's proposed rules are deeply flawed, MCI agrees that the Commission should consider measures to assist the efforts of U.S. carriers to enter foreign markets. However, it would be wholly counterproductive for the Commission to pursue that goal by denying U.S. customers the immeasurable benefits that flow from alliances between U.S. and foreign carriers.

The Commission should draw on its experience in securing reductions in accounting rates. To accomplish that goal, the Commission rejected another draconian AT&T proposal in favor of a more reasoned approach. AT&T had proposed that if negotiations between a U.S. carrier and a foreign carrier fail to achieve reductions in accounting rates, the U.S. carrier could terminate a particular service agreement and, at its request, the Commission would order all other U.S. carriers to terminate their service agreements with the same foreign administration.[36]

The Commission refused to adopt such a rigid, protectionist proposal which would have had a significant adverse impact on customers. Instead, the Commission decided to seek revisions in CCITT regulations to encourage foreign administrations to adopt cost-based accounting rates; to establish benchmark accounting rates and to direct U.S. carriers to report their progress in meeting those benchmarks; and through its public positions to urge foreign administrations to agree to reductions in accounting rates.[37] The Commission could employ the same basic approach in encouraging foreign administrations to open their markets to U.S. carriers.

---

[36] See Comments of AT&T, filed in Regulation of International Accounting Rates, CC Docket No. 90-337, October 12, 1990, at 36-39.

[37] Regulation of International Accounting Rates, 7 FCC Rcd 8040, 8043 (1992).

The Commission must necessarily recognize that foreign administrations -- for a host of technological, economic, institutional and political reasons -- might not be willing or able to open their markets by simply duplicating within a short period of time U.S. regulatory policies. Nonetheless, the Commission could establish certain benchmarks to evaluate the ability of U.S. carriers to enter foreign markets and through those benchmarks convey its expectations to foreign administrations.

For example, the Commission could consider as benchmarks: the ability of U.S. carriers to resell the foreign monopoly carrier's services; whether foreign administrations are considering permitting facilities-based competition and switched service competition; the ability of U.S. carriers to provide private line services; the ability of U.S. carriers to obtain reasonable access to foreign local exchange and toll networks; and whether foreign administrations prohibit the local monopoly carrier from discriminating among U.S. carriers in providing interconnection arrangements.

The benchmarks can also be geared to time frames. The Commission could direct U.S. carriers seeking to enter foreign markets to submit semi-annual reports on their progress and evaluate annually whether foreign administrations are meeting its benchmarks. If the Commission concludes that foreign administrations are not

making satisfactory progress, then it should consider adopting more forceful actions to assist the efforts of U.S. carriers to enter foreign markets.

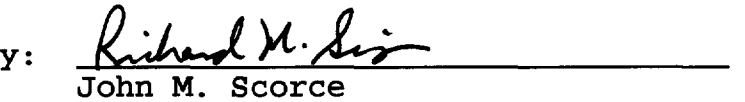
The foregoing measures could substantially assist U.S. carriers in expanding their services overseas and, unlike the rules AT&T proposes, would not deprive customers of the considerable benefits of relationships between U.S. and foreign carriers.

CONCLUSION

The Commission should institute a proceeding evaluating its current international service policies with the aim of fostering the participation of U.S. carriers in foreign markets. In undertaking this endeavor, the Commission should reject the protectionist and counterproductive rules proposed by AT&T. MCI looks forward to participating in such a proceeding.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

By: 

John M. Scorce
Jodi L. Cooper
1801 Pennsylvania Ave., N.W.
Washington, D.C. 20006
(202) 887-2276

Richard M. Singer
Neal M. Goldberg
Hopkins & Sutter
888 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 835-8000

November 1, 1993 Its Attorneys

CERTIFICATE OF SERVICE

I, Jean M. Layton, hereby certify that on this 1st day of November, 1993, the foregoing Comments were mailed postage prepaid to the parties listed below:

Kathleen B. Levitz, Esq.*
Acting Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 500
Washington, D.C. 20554

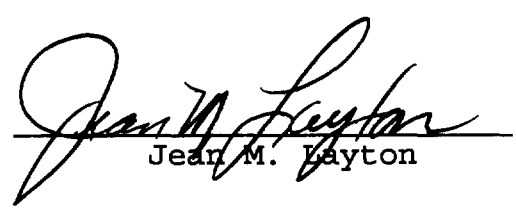
George S. Li, Chief*
International Facilities Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 530
Washington, D.C. 20554

Wendell R. Harris*
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 534
Washington, D.C. 20554

Jennifer Warren*
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 530
Washington, D.C. 20554

Judith A. Maynes, Esq.
Daniel Stark, Esq.
Elaine R. McHale, Esq.
American Telephone and Telegraph Company
295 N. Maple Avenue
Room 3236B2
Basking Ridge, NJ 07920

*By Hand



Jean M. Layton